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SUBJECT: CANADA: MISSION PERSPECTIVE ON SPP SECURITY GOALS

REF: A. MEXICO 02776 B. OTTAWA 01364

**1. SUMMARY:** Mission Canada appreciates the opportunity to comment on the interagency effort under way to identify a coherent and forward looking security road map for North America. We must continue to search for security weaknesses and identify areas where our three countries can strengthen our effort. As indicated in Ref B, the most logical way forward will be to consolidate and harmonize a plethora of existing programs, from multiple-use NEXUS cards to functional and user-friendly watch lists. We also believe that SPP should recognize and play off initiatives and activities that are already successfully underway. For example, we applaud the idea in the law enforcement goal of focusing on legal differences that undermine the otherwise excellent law enforcement cooperation between the US. and Canada. All Mission elements have discussed the various security Goal Papers as they have been developed in Washington over the past two weeks and offer our comments below. We welcome feedback and discussion on the various pieces of this mosaic that we have identified and invite suggestions from any quarter on how we in Mission Canada can help further the North American Partnership. Comments on the prosperity side of SPP are being transmitted septel. END SUMMARY

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GOAL 1: Traveler Security Strategy  
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**2.** All of us want to facilitate legitimate trade and travel to the maximum extent possible while still keeping those who would do us harm from entering the US. As a result, visa policy harmonization has been a top priority of both Canada Immigration and the State Department's Visa Office. In addition, Post has accorded every effort to convince Canada to bring into line their visa waiver program with ours.

**3.** We should all do more to improve the visa screening process for potential at-risk travelers. Though now down to two weeks processing time, compared to an average of 75 days a year ago, more rapid identification and verification of high-risk individuals through better connectivity is a must if we are to truly "facilitate" legitimate travel and trade in today's instant and time sensitive world.

**4.** One idea worth serious consideration is a continent-wide NEXUS program that defines and identifies individuals who pose little or no security or law enforcement risk. The current NEXUS program could be improved by simplifying the application process through introducing on-line NEXUS applications. Also worth exploring is the notion of a single NEXUS card that would be valid for air, sea and land crossings. Some cost recovery could be included in the application process (i.e., for a retina recognition capability).

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Goal 2: Cargo Security Strategy  
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**5.** Improving/updating PiP, Canada's version of C-TPAT, should be an objective. PiP, pre-dates 9/11 and thus far fails to guarantee the security of a manufacturer's/shipper's chain of supply. Canada could benefit from the lessons learned in formulating and implementing C-TPAT in the US. Both the US and Canada would further benefit if PiP and C-TPAT could be coordinated so that companies would have to meet one set of standards for both.

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Goal 3: Reducing Travel Time  
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**6.** The effort to increase participation in FAST should focus on those locations currently suffering traffic congestion or likely to in the near future. All construction planned at border crossings should include in design the fundamental advantages of FAST and NEXUS dedicated lanes and inspection booths. Additionally, both the US and Canada should continue to involve other government regulatory agencies from both countries in programs such as FAST and C-TPAT to utilize risk management and expedited reporting methods in order to improve border crossing facilitation.

#### Goal 4: Aviation Security Strategy

17. Security for US CBP officials at preclearance sites remains problematic. It would be better if CATSA security screeners were to be placed in front of our CBP pre-clearance personnel at all airports. At six of seven pre-clearance sites, DHS/CBP inspectors interview US bound passengers before they are screened by security. This poses a threat to the security and welfare of our airport CBP staff as they are exposed to unscreened passengers and baggage.

#### Goal 5: Maritime Security Strategy

18. Keeping criminals and terrorists from reaching our shores from the high seas is just as important as keeping them from transiting our land borders. We need a fully integrated US-Canada Maritime surveillance system to detect problematic vessels and we need an interdiction capability before suspect vessels enter US and Canadian ports and seaways. We are fortunate in that we have willing partners on the Canadian service side (Canadian Navy, RCMP, and Coast Guard). For instance, the Canadian Navy authorities at the Trinity facility in Halifax are making extensive renovations and are expanding the new Maritime Security Operations Center (MSOC). This Center will eventually link more closely with US interagency intelligence analysis centers. Similarly, US Coast Guard and the RCMP are hoping the US and Canada will soon sign a Shiprider Protocol which would allow both services to better carry out their interdiction and arrest responsibilities in our shared waterways. Nonetheless, there are old "sovereignty-related" perceptions that need to be broken down so that these programs can eventually run more seamlessly. One such "confidence building measure" would be a program for jointly training maritime search procedures to US and Canadian officials. Topics such as Confined Space Training, vessel boarding and searching/rummaging and underwater remote video inspection could be beneficial and make consistent our respective efforts.

19. One of the most consistent messages we hear from our industry contacts is that on the Canadian side of the border, infrastructure is the major bottleneck. One way to address this issue may be to develop more fully alternative modes of transport such as the use of short-sea shipping. Post recommends the establishment of an interagency working group tasked with identifying obstacles to investment and activity in this section. Canada and Mexico would do a similar internal assessment -- the analysis of which would feed into a trilateral short-sea shipping working group.

#### GOAL 6: LAW ENFORCEMENT STRATEGY

110. On land, Integrated Border Enforcement Teams (IBETs) have proven essential in the fight against criminals and terrorists who attempt to cross our land frontier undetected. Nonetheless, we are concerned about obvious security gaps along the Canadian-US contiguous border. To ensure that US and Canadian law enforcement officials can do their jobs, we believe that air assets should be standard at all IBET locations. We also think the road ahead necessitates our implementation of joint, versus the current parallel, operational deployment of IBET participants in pursuit of criminals and terrorists. For this to be practicable, however, there are memoranda of understanding, protocols and agreements that need to be finalized and implemented. For instance, the absence of a carriage of arms reciprocal agreement between the US and Canada has been a stumbling bloc to more effective Integrated Border Enforcement Team deployments. The US passed Title 19 legislation in February 2003, and has developed implementation guidelines now being put in place. Canada has stated that it would be amenable to offer US law enforcement officers Title 19-like authorities and exemptions, and this should be pursued.

111. Also of concern is the illegal transshipment of controlled goods through Canada to proscribed nations. US exporters are exempt from obtaining Department of State and Commerce export licenses for some controlled military and dual use products destined for Canada. However, some Canadian companies have circumvented Canada's regulations prohibiting the export of US origin items to sanctioned nations by falsifying the country of origin on applications for Canadian Government export permits. To date, the US has encouraged Canadian authorities to enact new legislation commensurate with current US prohibitions on the illegal transshipment of controlled goods to sanctioned nations. We have initiated partnership with Canadian authorities in an outreach effort to better educate private companies on issues associated with the illegal diversion of controlled goods. A Washington push to move forward on strengthened regulations and penalties would help convince the Canadians of our

intent.

¶12. Migrant smuggling and trafficking in persons is an emotional hot button for many Canadians. Though Canada just made it into our Tier 1 status after being classified Tier 2 for lack of government action against human traffickers, there remains much that Ottawa can do to counter what we see as a growing phenomenon in and through Canada. What we know for sure is that there are no verifiable numbers to measure the magnitude of the problem, and despite the RCMP's establishment of counter-human trafficking task groups, to date there has been only one arrest of a man accused of trafficking. There have been no successful prosecutions of human traffickers in Canada.

¶13. In response to Washington's efforts to highlight the issue, the Cross Border Crime Forum tasked US and Canadian members to prepare a Joint Threat Assessment on Human Trafficking and by all reports the final document, complete with recommendations, should be ready by the end of the year. This is an important first step, but to be effective both Canadian and US authorities will need to evaluate and where acceptable, follow through on the Assessment's recommendations.

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GOAL 7: Intelligence Sharing  
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¶14. All USG agencies involved in cross border activities have at least some information gathering or reporting function. However, the Director of National Intelligence (DNI) has responsibility and oversight of all intelligence coordination and activities conducted overseas. The structure and mechanisms called for in the new US intelligence legislation still need to be worked out, and it is imperative the USG avoid confusion that would result from a duplication of effort.

¶15. The law enforcement subgroup of the Cross Border Crime Forum has been working steadfastly for years to streamline other mechanisms to enhance the effectiveness of intelligence information sharing between US and Canadian Government law enforcement and justice authorities. Of note, the series of Joint Threat Assessments on Organized Crime, Drug Trafficking, Identity Theft and Firearms Trafficking have been significant instruments through which previously not, or poorly shared information has been documented by both nations' law enforcement and justice authorities. As noted above, a Joint Trafficking in Persons Threat Assessment is being prepared and should be published by the end of the year. Additionally, we understand that a new Threat Assessment on Counterfeit Goods is being considered. It already has high level Canadian endorsement. These documents form an urgently needed foundation for comprehensive strategy development by US and Canadian law enforcement authorities and could be expanded to include a wider range of agency stakeholders from both sides of the border. The eventual usefulness however, will be measured by the willingness of both nation's authorities to endorse and pursue the Assessments' agreed upon recommendations.

¶16. Nonetheless, currency smuggling is an issue that Mission components feel still needs immediate attention. US and Canadian law requires negotiable instruments at or over 10,000 dollars (both Canadian and US) be declared at ports of entry, both inbound and outbound. Canada Border Security Agency (CBSA) is charged with the border enforcement of the reporting requirement in Canada on behalf of the Financial Transactions Reports Analysis Center of Canada (FINTRAC), which reviews incoming reports for potential action by law enforcement. Currently, FINTRAC is attempting to implement a 72-hour information turnaround which does little to enable US or Canadian authorities at the border points of entry to investigate or arrest suspects involved in money smuggling at the actual time of entry/departure. Though, Canada is expected to enact legislative changes by January 2006 that would allow for a more direct sharing of seizure data and intelligence between US and Canadian authorities along the contiguous US-Canada border. Unless the transfer of data is immediate, criminals and possibly terrorists will continue to transport negotiable financial instruments between the US and Canada with relative impunity.

¶17. More broadly, there is a need for more useful information sharing between US and Canadian law enforcement officials in situations where no formal joint or cross border investigations are in place or where standing provisions for Mutual Legal Assistance do not apply. Impediments to investigations, arrests and prosecutions resulting from Canada's more stringent Privacy Act requirements plague US law enforcement and Justice officials. Bringing Canada's "reason to believe" standard more in line with our "reason to suspect" standard should be done. It will require high level attention.

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Goal 8: BioProtection  
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18. Post believes that all the objectives under the BioProtection Strategy are presently being addressed utilizing various fora established in existing treaties, memoranda of understandings, trade agreement, and through declarations by international standard setting bodies. Key to meeting the timeframes being set in the SPP is a strong buy-in by pertinent federal/state-provincial and local agencies.

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GOAL 9: Protection Prevention and Response  
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19. Though more can be done, Canadian and US authorities already cooperate on emergency management, both formally and informally. For instance, both TOPOFF II and TOPOFF III provided valuable insight into how prepared Canada and the US are to respond effectively to a mass causality event. To further hone skills and expose deficiencies, we hope Canada will continue to participate with the US and others, and indeed expand their gaming to include wider provincial and local jurisdictions. Obviously, the ultimate goal will be to correct deficiencies and make stronger and better our collective ability to respond. We say this, noting that there are many state/provincial and local jurisdictions that have in place a wide-range of cross border local emergency response assistance agreements.

20. We also believe that the US's Center for Disease Control and Health Canada have been and continue to be close and active partners, a relationship between experts that should assist US and Canadian efforts to identify, isolate and eventually eliminate threats posed by infectious diseases. One possible area that may help both the US and Canada more quickly and effectively respond to a mass casualty event or possible pandemic would be to investigate whether or not a harmonization of medical professional licensing requirements could be done. Post recognizes the such an effort would have significant repercussions on medical standards and practices in both the US and Canada, but if an event occurs that necessitates a "good Samaritan" response, affected residents on both sides of the border could be helped more quickly if both governments allow the pre-positioning of license/certification data in each other's jurisdictions.

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